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DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT, DIVISION OF
RESEARCH AND ASSISTANCE

JUNE 1974

Joint Legislative Audit Committee

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June 12, 1974

The Honorable Speaker of the Assembly
The Honorable President of the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members:

Transmitted herewith is the Auditor General's report pertaining to the operations of the Division of Research and Assistance of the State Department of Housing and Community Development (HCD). HCD is an organizational unit within the Business and Transportation Agency.

HCD is required by statute to "...provide technical assistance and coordination between the [state] departments in developing and administering" aftercare housing programs. Such programs refer to the providing, by those state departments (such as the California Youth Authority [CYA]) of adequate low-rent housing to persons who are not financially able to provide housing themselves and are under the jurisdiction of those departments.

Since September 1973, CYA has attempted to obtain technical assistance from HCD but has received no such assistance as of June 1, 1974. In fact, HCD has never fulfilled its statutory aftercare housing responsibilities to any state agency. The Auditor General has recommended that HCD fulfill its statutory aftercare housing responsibilities which include the providing of technical assistance and coordination for applicable state departments.

In August 1973 the administration of the Indian Assistance Program was undertaken by HCD's Division of Research and Assistance, under an interagency agreement with the Office of Planning and Research (OPR) in the Governor's Office. This administrative

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responsibility was assumed without legislative authority. This program had previously been administered by OPR. Not until seven months later did the Department of Finance notify the Legislature, as required by Section 28 of the Budget Act, that HCD was going to administer the Indian Assistance Program.

The interagency agreement cites responsibilities for activities other than housing and community development, including health and education. Despite the fact that the Indian Assistance Program may be worthwhile, the Legislative Counsel and the Counsel for the Office of the Auditor General have concluded that HCD has exceeded its authority in administering the program with regard to such activities as health and education.

The Auditor General has recommended that the administration of that portion of the Indian Assistance Program which is beyond the scope of HCD's statutory authority be immediately discontinued until such authority is obtained.

Since January 1973, HCD has had four directors or acting directors and its Division of Research and Assistance has had three chiefs. The Auditor General concludes that this lack of continuity of management has contributed to the above-noted deficiencies.

In addition to the frequent changes in HCD's management, the ability of the Division of Research and Assistance to meet its statutory responsibilities was impaired by an attempt during fiscal year 1973-74 to abolish the division and to merge it into OPR without benefit of legislation. Such a reorganization plan, which had been proposed in the Building and Safety Standards Bill, was subsequently deleted from the bill.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Vincent Thomas", with a stylized, flowing script.

VINCENT THOMAS, Chairman
Joint Legislative Audit Committee

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SUMMARY OF FINDING
AND RECOMMENDATIONS

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FINDING

The Division of Research and Assistance has not performed duties required by statute and has performed functions not authorized by statute.

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RECOMMENDATIONS

We recommend that the Director of HCD require the Division of Research and Assistance to:

1. Fulfill its statutory aftercare housing responsibilities, which include the providing of technical assistance and coordination for applicable state departments
2. Immediately discontinue the administration of those portions of the Indian Assistance Program which are beyond the scope of HCD's housing and community development statutory authority until such authority is obtained.

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INTRODUCTION

In response to a legislative request, we have reviewed the operations of the Division of Research and Assistance in the Department of Housing and Community Development. This review included an examination of the division's compliance with statutory requirements and its performance of the functions described in the 1973-74 budget.

The Department of Housing and Community Development is an organizational unit within the Business and Transportation Agency. The department is divided into two divisions, the Division of Codes and Standards and the Division of Research and Assistance. We have previously reported on the operations of the Division of Codes and Standards (No. 206.1, dated February 1974).

As stated in the department's annual report, the objective of the Division of Research and Assistance is to assist in seeking solutions to California's housing and community development problems. Through research, technical assistance, advice and dissemination of information to citizens, industry and local governments, the division attempts to meet its objective.

The performance of this objective has been impaired by the lack of continuity in department management and by a confusing relationship with the Office of Planning and Research in the Governor's Office.

FINDING

THE DIVISION OF RESEARCH AND ASSISTANCE
HAS NOT PERFORMED DUTIES REQUIRED BY
STATUTE AND HAS PERFORMED FUNCTIONS NOT
AUTHORIZED BY STATUTE

The division has not complied with statutory requirements to provide assistance and coordination between other state departments in developing an aftercare housing program and has exceeded its discretionary authority by administering an Indian Assistance program not authorized by statute.

Lack of Statutory Compliance

The Department of Housing and Community Development (HCD) is required by statute to "... provide technical assistance and coordination between the [specified state] departments in developing and administering" aftercare housing programs.

"Aftercare housing" is low-rent housing for any person not financially able to provide adequate housing for himself or his dependents, who is subject to the jurisdiction of, supervision of, or receiving benefits from the Departments of Corrections, Health, Rehabilitation, and Youth Authority, but not confined to any institution. Such aftercare housing may be provided by each of the above-named state departments.

Internal written memorandums of the California Youth Authority (CYA) disclose that since September 1973 CYA has attempted to obtain from HCD their

assistance and coordination in developing an aftercare housing program. Communications from CYA to the HCD relating to this matter were oral. HCD internal correspondence clearly documents the fact that CYA made oral requests to HCD for aftercare housing assistance. On March 18, 1974, the director of CYA informed the County of San Mateo Housing Authority, in response to their inquiries, that CYA had received no information from HCD as to the specific action required by CYA in order to qualify or participate in the subsidization for aftercare housing. As of June 1, 1974, some nine months after CYA first made an oral request to HCD for assistance, HCD has rendered no assistance to CYA, or to any other state agency.

The Business and Transportation Agency's Assistant to the Secretary for Legislative and Legal Affairs stated to HCD in March 1974 as follows:

"I do not believe that the law requires that you actively promote aftercare housing.

"The role of your Department appears to be one of assistance and coordination, not one of initiation. The law appears to require that in the event one of the principal departments embarks on a program of providing aftercare housing, it then becomes your function to coordinate their activities with Federal and local officials. In the absence of such a decision by one of the principal departments, there appears to be nothing that you are legally bound to do, except that you are, of course, required to receive annually from each principal department its requirements for dwelling units proposed to be provided pursuant to the act. I would urge that you again bring this mandate to the attention of the principal departments."

HCD has used this statement by the Business and Transportation Agency as justification for its inaction in aftercare housing. As can be

seen, however, the statement is irrelevant to the issue at hand. The statute requires HCD to provide technical assistance and coordination.

In our judgment, the fulfilling by HCD of the aftercare housing responsibilities is necessary and useful to applicable state departments.

Performance of Unauthorized Functions

As discussed in another section of this report, during fiscal year 1973-74, the division was operating at a reduced staffing level and could not perform all program elements at their budgeted levels. Nevertheless, during this period the division, without statutory authorization, undertook the administration of the Indian Assistance Program, which had previously been administered by the Office of Planning and Research (OPR) in the Governor's Office.

Administration of the Indian Assistance Program was assigned to HCD's Division of Research and Assistance in August 1973 without legislative authority. The program is performed under an interagency agreement with OPR. This agreement includes responsibilities other than for housing and community development, such as health and education, and provides that the division will assist Indians in the following manner:

- Clarify the current and proposed responsibilities of each public agency dealing with Indians.
- Develop a legal handbook for Indians which would describe the responsibilities of federal, state and local governments.

- Develop a manual on management of programs and fiscal procedures.

Section 28 of the Budget Act allows the Department of Finance to authorize expenditures for a new program not identified in the budget upon 30 days written notice to specified legislative committees. The notice required by Section 28 for the performance of the Indian Assistance Program by HCD was sent to those committees on March 12, 1974 some seven months after HCD had commenced administration of the program. Even at that time, the Section 28 letter stated HCD would not commence administration of the program prior to April 12, 1974. Since undertaking the administration of the program, the division has had the equivalent of two full-time positions assigned to the program.

In response to our request, the Legislative Counsel has reviewed the interagency agreement between OPR and HCD for administering the Indian Assistance Program, and has stated:

"...we do not think that the department [HCD] has the authority to engage in activities relating to Indian affairs beyond the scope of such [enumerated] powers, such as in the fields of health and education, which we think are contemplated by the interagency agreement."

The existence and administration of an Indian Assistance Program, as contemplated by the interagency agreement, may be worthwhile. However, in the judgment of the Counsel for the Office of the Auditor General, HCD's performance of the entire interagency agreement, which includes responsibilities other than for housing and community development, without statutory authority to do so, is unauthorized and hence unlawful.

RECOMMENDATIONS

We recommend that the Director of HCD require the Division of Research and Assistance to:

1. Fulfill its statutory aftercare housing responsibilities, which include the providing of technical assistance and coordination for applicable state departments.
2. Immediately discontinue the administration of those portions of the Indian Assistance Program which are beyond the scope of HCD's housing and community development statutory authority until such authority is obtained.

INFORMATION REQUESTED
BY THE LEGISLATURE

In response to a legislative request, we have compared the actual performance of the Division of Research and Assistance with that set forth in the 1973-74 Governor's Budget, and have evaluated the department's actions related to the reorganization proposed in the Building and Safety Standards Reorganization Bill (AB 2265).

PERFORMANCE OF BUDGETED FUNCTIONS

Our examination of time records of division personnel for the nine-month period, July 1, 1973 to March 31, 1974, disclosed that there are significant deviations in actual performance from that budgeted. The division had budgeted a total of 20.7 full-time positions for fiscal year 1973-74. However, for the first nine months an average of only 17.3 of these positions was filled. At April 1, there were only 16 positions actually filled and the division indicated it plans to reduce this to less than 15 for the next fiscal year.

Since the division was not fully staffed, all program elements could not be performed at their budgeted levels. The division management had a choice of performing all budgeted activities at a reduced level of effort, or of selectively curtailing or eliminating budgeted activities. A comparison of the budgeted level of effort with that actually expended for the first nine months of the fiscal year, by budgeted program element, is shown in Table 1.

Table 1

Department of Housing and Community Development
 Division of Research and Assistance
 Number of Man-Years by Program Element
Fiscal Year 1973-74

<u>Budget Program Element</u>	Full-Time Positions Included In Governor's <u>Budget</u>	Actual Full-Time Positions Used in First <u>Nine Months*</u>
1 State Housing Activities		
A Statewide Housing Element	4.2	3.8
B Local Technical Assistance	2.0	0.9
C California Community Development Study	.0	0.7
D Training of Local Citizens and Officials	1.5	0.1
E Research and Statistics Program	1.0	1.2
2 Low and Moderate Income Housing Including Housing for the Elderly	5.2	2.0
3 Statewide Community Development Activities		
A Community and Neighborhood Development	2.0	2.3
B Housing Relocation	1.8	2.4
C Rehabilitation and Code Enforcement	1.0	0.2
4 Rural Housing	1.0	0.3
5 General Assistance	1.0	1.4
- Indian Assistance	<u>.0</u>	<u>2.0</u>
Totals	<u>20.7</u>	<u>17.3</u>

* These amounts include a proportional allocation of 0.7 man-years for legislative activities for the department, and 3.7 man-years incurred by division personnel but for which no records were maintained to show specifically where such time was expended.

The most severe personnel reductions were made by the division in the following areas:

- Low and moderate income housing including housing for the elderly:

Budgeted: 5.2 positions

Actual: 2.0 positions

- Local technical assistance and training of local citizens and officials:

Budgeted: 3.5 positions

Actual: 1.0 position

- Rehabilitation and code enforcement:

Budgeted: 1.0 position

Actual: 2/10 position

- Rural housing:

Budgeted: 1.0 position

Actual: 3/10 position

Although the total staffing level of the division was reduced, the California Community Development Study, Community and Neighborhood Development, Housing Relocation, and General Assistance program elements each had more time expended than was budgeted.

The time for the California Community Development Study was devoted to a report which was to have been completed by the end of the prior fiscal year, June 30, 1973. The time expended for Housing Relocation was requested by the Division of Highways, and was reimbursed by that division through an interagency agreement. As a result of expending additional manpower for work, (1) which should have been completed in the prior year, and (2) for another state agency, the time available for the division's regular 1973-74 budgeted programs was reduced.

CONTINUITY AND REORGANIZATION OF THE DIVISION

Since January 1973, the Department of Housing and Community Development has had four directors or acting directors, and its Division of Research and Assistance has had three chiefs. In our judgment, this lack of continuity of management has contributed to the deficiencies previously discussed in this report.

From April to June 1973, HCD's chief deputy director represented himself as the director and the salary earned by him was higher than the statutory maximum for the director's position. The Attorney General is currently reviewing the legality of the appointment of the chief deputy director with regard to the receipt of a salary higher than the position of the director, and with regard to the execution of his appointment document.

After the chief deputy director resigned in June 1973 to become the director of OPR, the Secretary of the Business and Transportation Agency

then appointed the director of OPR to serve as "administrative head of the Department" which was in addition to his responsibilities at OPR. The director of OPR continued to serve as "administrative head of the Department" until about October 1973 when the deputy director became the acting director.

With the concurrence of the Deputy Secretary of the Business and Transportation Agency, the Chiefs of the Division of Codes and Standards and the Division of Research and Assistance exchanged positions in early January 1974 at the direction of the Acting Director of HCD.

The Governor then appointed a new director for the department in January 1974.

In addition to the frequent changes in HCD's management, the division's ability to meet its statutory responsibilities was impaired by an attempt during fiscal year 1973-74 to abolish the division and merge it into OPR without benefit of legislation.

The division and OPR began to implement without legislative approval the reorganization proposed in the Building and Safety Standards Reorganization Bill. Under this bill, HCD was to be abolished, and the powers, duties, and responsibilities of the Division of Research and Assistance were to be transferred to OPR. The reorganization plan was subsequently deleted from the bill.

The division and OPR began to implement the unauthorized reorganization in the following manner:

- The two organizations shared the same director and deputy director.
- The division chief was involved in the internal activities of OPR.
- Certain employees of each organization, both professional and clerical, were involved in the operation of the other organization.

The attempted reorganization ceased with the removal of the reorganization plan from the Building and Safety Standards Reorganization Bill, except for (1) continuation by the division of the Indian Assistance Program which formerly was an activity of OPR, and (2) assumption by OPR of the role of primary contact with federal agencies, which is assigned to HCD by statute.

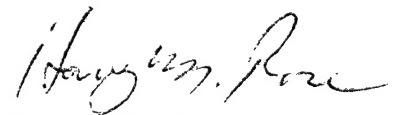
Therefore, while Section 37132 of the Health and Safety Code provides that the department "shall be the principal state department responsible for coordinating federal-state relationships in housing", this responsibility is performed by OPR. This has been achieved by requiring all requests for federal grants for planning funds to be approved by OPR. Furthermore, the San Francisco Area Office of the federal Department of Housing and Urban Development (HUD) advised us that its highest volume of contacts with state agencies is probably with OPR concerning planning grants and review of HUD grants; HUD contacts with HCD involve state legislation for building codes, etc., which are the responsibility of the Division of Codes and Standards and not the Division of Research and Assistance.

SUMMARY OF COMMENTS OF THE DIRECTOR OF
HOUSING AND COMMUNITY DEVELOPMENT
AND DEPUTY SECRETARY OF THE
BUSINESS AND TRANSPORTATION AGENCY

1. The Director of HCD stated that the Departments of Corrections, Health, Rehabilitation and Youth Authority had not, to his knowledge, expressed any interest in or made any requests for HCD assistance in implementing the Aftercare Housing Program.
2. The Director of HCD stated that HCD has been advised by the Business and Transportation Agency that HCD's sole statutory requirement relating to the Aftercare Housing Program is to prepare an annual report on each principal department's aftercare housing requirements from data submitted by those departments. HCD will correspond with those departments in the near future to obtain the data needed to prepare this report.
3. The Director of HCD stated that while the administration of the Indian Assistance Program should not be a responsibility of HCD, HCD was directed by the Business and Transportation Agency to assume this responsibility, and therefore had no choice in the matter. The Deputy Secretary of the Business and Transportation Agency concurs and added that the Director of OPR requested that the Indian Assistance Program be transferred to HCD, because it seemed the most logical place for this program.

4. The Deputy Secretary of the Business and Transportation Agency also stated:

- Vacancies were not filled in the Division of Research and Assistance because it was difficult to fill these positions with qualified personnel.
- Continuity of management contributed to some of HCD's problems.
- HCD under the Building and Safety Standards Reorganization Bill was not to be abolished. The bill would have only resulted in a name change and a combining of three separate state entities, which are now in different departments, and which have responsibility for the enforcement of building codes and standards.
- Concerning OPR's assumption of HCD's responsibility for obtaining federal funds, it was his understanding that this is consistent with the Governor's philosophy of having a centralized clearing house for federally-funded programs.



Harvey M. Rose
Auditor General

June 7, 1974

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